

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JERRY VANDIVER,

Plaintiff,

Hon. Janet T. Neff

v.

Case No. 1:10 CV 41

CORRECTIONAL MEDICAL
SERVICES, et al.,

Defendants.

REPORT AND RECOMMENDATION

This matter is before the Court due to Plaintiff's failure to pay the filing fee as ordered by the Honorable Janet T. Neff. Pursuant to 28 U.S.C. § 636(b)(1)(B), the undersigned recommends that Plaintiff's action be **dismissed**.

Plaintiff initiated this action on January 4, 2010. His subsequent request to proceed as a pauper was granted. Defendants later moved to revoke Plaintiff's *in forma pauperis* status. On August 19, 2010, the undersigned recommended that Defendants' motion be granted and that "Plaintiff be required to submit the entire \$350.00 filing fee within thirty (30) days of the date of such Order and that if Plaintiff fails to do so this action be dismissed." The undersigned further recommended that "[a]ny such dismissal will not, however, negate Plaintiff's obligation to pay the filing fee in full." On December 3, 2010, Judge Neff adopted this recommendation, ordering Plaintiff to "submit the entire \$350.00 filing fee" within 30 days. Judge Neff further ordered that "[f]ailure to submit the entire filing fee will result in dismissal of this case" and, furthermore, that "[a]ny such dismissal will not, however, negate plaintiff's obligation to pay the filing fee in full."

CONCLUSION

Plaintiff has failed to comply with Judge Neff's Order. Accordingly, the undersigned recommends that Plaintiff's action be dismissed. The undersigned further recommends that dismissal of this action not negate Plaintiff's obligation to pay the \$350.00 filing fee in full.

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir.1981).

Respectfully submitted,

Date: January 7, 2011

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge